IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22663 of 2004

Between:

Smt. Aliya Sultana W/o.Vikaruddin Shaik Imam
R/o.H.No.8-2-710/2, Road No.12 Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 Addl.Secretary to Government Government of Andhra Pradesh
Home (Arms) Deptt., Secretariat, Hyderabad.
2 Dy.Commissioner of Police West Zone, A.C. Guards
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the letter No.9425/Army/2004 dt.15.10.2004 in rejecting the request of the petitioner for sale of 0.315 NP bore rifle with replacement as illegal, arbitrary and unjust and without any authority, and consequently direct the respondent to grant permission for sale of 0.315 NP bore rifle with replacement by issuing appropriate writ of Mandamus order or direction and pass such other order or orders.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following ORDER:

Petitioner holds a weapon licence under the Arms Act. She submitted a representation dated 17.02.2003 to respondents, seeking permission to sell the weapon held by her and to replace the same with another. The second respondent passed an order to the effect that the petitioner can sell the weapon to any authorized arms dealer or licencee and did not permit her to replace the same. The petitioner preferred an appeal before the first respondent. Through order dated 15.10.2004, the first respondent rejected the appeal. Hence, this writ petition.

Extensive arguments are advanced by the learned counsel for the petitioner touching the conditions of the licence and provisions of the Arms Act. According to him, once an individual is granted licence, he shall be entitled to hold the weapon or to replace it with another. He contends that refusing permission to the petitioner to replace the weapon, would amount to cancellation of the licence itself.

Learned Government Pleader for Home, on instructions, submits that the petitioner is already holding two weapons with licence and there is no necessity for her to hold a third weapon, particularly in view of the law and order problem prevailing in the State.

The petitioner sought the permission of the respondents to replace the weapon held by her with licence. Though permission was granted for disposal of the weapon, the respondents refused to accord permission for replacement of the same. The circumstances under which such decision came to be taken are not evident either from the endorsement made by the second respondent or the order passed by the first respondent. The petitioner cannot be left to grope in

darkness as to the reasons for rejection of her request. The order passed by the second respondent on 15.10.2004 contains only one sentence. It reads as under:

> “I am directed to inform you that your request for sale of .315 rifle with replacement cannot be considered.”

The appellate authority is required to record reasons in support of its conclusion. Unless reasons are contained in it, the very exercise of appellate power stands reduced to an empty formality. The order passed by the second respondent is equally silent.

For the foregoing reasons, the orders passed by both the respondents are set aside and the second respondent is directed to dispose of the application of the petitioner afresh, furnishing the reasons in support of his conclusions.

The writ petition is accordingly allowed. No order as to costs.

10.12.2004

ksld

To

1 The Addl.Secretary to Government Government of Andhra Pradesh
Home (Arms) Deptt., Secretariat, Hyderabad.
2 The Dy.Commissioner of Police West Zone, A.C. Guards
Hyderabad.

3 Two C.Cs. to the Government Pleader for Home, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. copies.